

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA,

Plaintiff,

v.

OLD DUTCH MUSTARD COMPANY, INC.,  
d/b/a PILGRIM FOODS,

Defendant.

Civil No. \_\_\_\_\_

**COMPLAINT**

The United States of America, by authority of the Attorney General of the United States, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges as follows:

**I. STATEMENT OF THE CASE.**

1. This is a civil action against Old Dutch Mustard Company, Inc., d/b/a Pilgrim Foods ("Pilgrim"), seeking injunctive relief and civil penalties for violations of the Federal Water Pollution Control Act ("Clean Water Act" or "CWA"), 33 U.S.C. §§ 1311, et seq., at Pilgrim's food processing plant at 68 Old Wilton Road in Greenville, New Hampshire (the "plant" or the "facility"). In particular, the United States alleges that:

a) between October 1, 1992, and February 16, 2000, Pilgrim failed to apply for a National Pollution Discharge Elimination System ("NPDES") permit to discharge storm water associated with industrial activity from a tank farm on its facility to navigable waters of the United States in violation of Section 308(a) of the CWA, 33 U.S.C. § 1318(a);

b) between October 1, 1992, and February 16, 2000, Pilgrim discharged storm water associated with industrial activity from a tank farm on its facility to navigable waters of the United States in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a);

c) at various times before and after November 21, 1995, Pilgrim discharged certain process waste waters to navigable waters of the United States without a NPDES permit in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a);

d) from approximately July 1, 1991, to April 28, 1999, Pilgrim failed to have a Spill Prevention Control and Countermeasure ("SPCC") Plan in relation to its oil storage facilities in violation of Section 311(j) of the CWA, 33 U.S.C. § 1321(j), and in violation of 40 C.F.R. § 112.3(b); and

e) on September 8, 1998, Pilgrim discharged oil to navigable waters of the United States in violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

## **II. JURISDICTION, VENUE, AND NOTICE.**

2. This Court has jurisdiction over the subject matter of this action pursuant to 33 U.S.C. §§ 1319(b), (d); 1321(b)(7)(E); and 28 U.S.C. §§ 1331, 1345, and 1355. The Court has jurisdiction to issue a declaratory judgment in this action pursuant to 28 U.S.C. § 2201.

3. Venue is proper in this district, pursuant to 33 U.S.C. §§ 1319(b), 1321(b)(7)(E) and 28 U.S.C. §§ 1391(b) and (c) and 1395, because the claims arose in this district.

4. Notice of the commencement of this action and of the filing of this Complaint have been given to the State of New Hampshire pursuant to 33 U.S.C. § 1319(b).

### **III. PARTIES.**

5. Old Dutch Mustard Company, Inc., d/b/a Pilgrim Foods, is a New York corporation and operates a manufacturing facility at 68 Old Wilton Road in Greenville, New Hampshire. Pilgrim is a "person" as defined by Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.

6. The United States brings this action on behalf of the Administrator of the EPA ("Administrator") under Sections 309(b) and 506 of the CWA, 33 U.S.C. §§ 1319(b) and 1366, and 28 U.S.C. §§ 516 and 519.

### **IV. FACTUAL BACKGROUND.**

7. Pilgrim is engaged in the production of vinegar, mustard, and, until December of 2001, reconstituted fruit juices at its plant in Greenville, New Hampshire.

8. Pilgrim's operations at its plant in Greenville, New Hampshire, qualify it for classification as a "foods and kindred products" manufacturing facility under subsections "2035" and "2099" of Code 20 of the Standard Industrial Classification ("SIC") system.

9. Until December of 2001, Pilgrim's food processing operations at the Greenville plant were conducted primarily in portions of two buildings. One building housed the vinegar production area and a vehicle maintenance garage. The second housed the mustard production area and a bottling plant. This second building was destroyed by fire in December of 2001 but the foundation remains.

10. An unnamed brook ("Brook") transects a portion of plant property and, until the December, 2001 fire, it ran underneath this second production building for several hundred feet through a 48-inch concrete culvert. A short distance from this former production building, the

culvert discharged into the natural streambed which flows into the Souhegan River, a Class B waterway. The Souhegan River is a tributary of the Merrimack River.

11. The Brook, the Souhegan River, and the Merrimack River are “waters of the United States” as defined in 40 C.F.R. § 122.2 and, hence, are navigable waters of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

12. An outdoor tank farm is located immediately up-gradient from the vinegar production building and the former mustard production and bottling building.

13. The tanks are used primarily to store raw materials including cider wine stock, red wine stock, ethyl alcohol, and water, as well as intermediate and finished vinegar product.

14. The ground surface in the tank farm is crushed stone over soil.

15. As of March 31, 1995, there were approximately 37 outdoor storage tanks in this tank farm with a total holding capacity of approximately 1,173,207 gallons.

16. As of March 31, 1995, 35 of these 37 tanks were constructed of wood.

17. During the time that these wooden tanks have been in use, raw materials and finished vinegar product have leaked, dripped, and/or spilled from some of the tanks to the ground below.

18. Since before 1986 to the present, detachable flexible hoses have been used to transfer raw materials and finished vinegar product among the tanks, the production facilities, and the tanker trucks which transported the raw materials and finished vinegar product to and from the plant.

19. During the time this flexible hosing has been in use, raw materials and finished vinegar product have leaked, dripped, and/or spilled to the ground in the tank farm.

20. During the time the tank farm has been in use, precipitation falling on, and surface runoff flowing through, the tank farm has been exposed to the raw materials and finished vinegar product which have spilled, dripped, or leaked to the ground.

21. Since before 1986, a storm water drainage system comprised of catch basins, conduits and an outfall has serviced the tank farm and the general area around the adjacent production buildings. During this time, storm water collected in this drainage system discharged to the Brook.

23. The outfall of the storm water drainage system is a "point source" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

24. In 1986, Pilgrim applied for a NPDES permit to discharge storm water runoff from portions of the Greenville facility to the Brook.

25. Pilgrim's permit application expressly excluded from the requested discharge permit's coverage discharges of the storm water drainage system serving the tank farm area and adjacent area.

26. Pilgrim's 1986 NPDES permit application also did not seek authority to discharge process waters to the Brook from the following sources:

- a) interior truck tank rinsing operations;
- b) exterior vehicle washing operations; and
- c) floor drains in the pasteurizing room for the one-gallon vinegar bottling line.

27. Since before 1986, Pilgrim has rinsed the inside of truck bulk-transport tanks after off-loading raw materials to the plant and before on-loading finished vinegar product for bulk

shipment. Until October, 1998, the water from these tank-rinsing operations was discharged to the Brook through the storm water drainage system serving the tank farm and adjacent area.

28. Since before 1986, Pilgrim has washed the exterior of trucks or other vehicles in an area serviced by the tank farm storm water drainage system. Until October, 1998, the water from these vehicle-washing operations was discharged through the storm water drainage system to the Brook.

29. Prior to August 6, 1996, one or more drains in the pasteurizer room for the one-gallon vinegar containers were connected to the outfall to the Brook. Although this pipe had been plugged at one point in the past, in 1996, Pilgrim discovered that a crack in the plug had allowed floor-wash water, "boiler blow-down," and any contaminants from the pasteurizing and bottling plant operations falling onto the floor in the area to discharge to the Brook. On or about August 6, 1996, Pilgrim replugged the drain pipe to the Brook and redirected the floor drain effluent to the plant's pretreatment lagoons.

30. Prior to October, 1998, one or more floor drains in the vehicle maintenance garage were connected to the storm water drainage system which discharges to the Brook. Although the floor drains had been plugged at some point, on September 8, 1998, the plug in one of these floor drains was not sealed and allowed oil spilled in the garage to discharge through the storm drainage system to the Brook.

31. Since at least December, 1990, Pilgrim has stored fuel oil in an above-ground tank having a holding capacity of 10,000 gallons or more at its Greenville plant.

32. Pilgrim first filed an oil spill prevention control and counter-measure plan on or about April 29, 1999.

33. From 1996 through 2000, Pilgrim monitored the pH levels of water in the Brook at points upstream and downstream from the 48" culvert carrying the Brook under the former mustard production and bottling plant building.

34. The pH levels recorded below the plant's storm water drainage outfall in the 48" culvert were routinely lower than the pH levels recorded upstream of the culvert. Recorded instream pH levels below the culvert were as low as 3.19 standard units.

35. Various pH readings by State and EPA officials at these locations in this time period showed pH levels in the water below the culvert to be lower than the pH levels above the culvert.

36. On several occasions prior to and during 1998, State and/or Federal environmental officials inspected the Brook both upstream and downstream from Pilgrim's storm water drainage outfall in the 48" culvert. In 1998, EPA officials observed that signs of a viable aquatic stream environment above the plant contrasted with the marked absence of almost any sign of life in the stream below the 48" culvert outfall.

37. Pilgrim first completed a Storm Water Pollution Prevention ("SWPP") Plan in November, 1999.

38. On February 16, 2000, Pilgrim notified the EPA of its intent to apply for coverage of its storm water discharges under a NPDES "Multi-Sector General Permit." Coverage of Pilgrim's storm water discharges was authorized under the Multi-Sector General Permit as of February 18, 2000.

**V. CLAIMS.**

**COUNT 1**

**FAILURE TO APPLY FOR STORM WATER DISCHARGE PERMIT:  
SECTION 308(a), 33 U.S.C. § 1318(a), VIOLATION**

39. The United States realleges and incorporates by reference the allegations of Paragraphs 1 through 38 above.

40. Section 402(p)(2)(B) of the Act, 33 U.S.C. § 1342(p)(2)(B), requires any storm water discharge associated with "industrial activity" to be authorized by a NPDES permit. Pursuant to Sections 308 and 402 of the CWA, 33 U.S.C. §§ 1318 and 1342, the Administrator of the United States Environmental Protection Agency ("Administrator") promulgated regulations relating to the control of storm water discharges to waters of the United States. These regulations appear at 40 C.F.R. § 122.

41. Under 40 C.F.R. § 122.26(c)(1), dischargers of storm water associated with industrial activity are required to apply for NPDES permits. Under 40 C.F.R. § 122.26(e)(1), the deadline for the permit application for then-existing dischargers was October 1, 1992.

42. Under 40 C.F.R. § 122.26(b)(14)(xi), "storm water discharge associated with industrial activity" includes storm water from "foods and kindred products" facilities identified under SIC code "20."

43. Under 40 C.F.R. § 122.26(c)(1) and (e), Pilgrim was required to complete a NPDES permit application for the "storm water discharges associated with industrial activity," as defined by 40 C.F.R. § 122.26(b)(14), by October 1, 1992, because:

- a) Pilgrim's operations in Greenville, New Hampshire, classified the plant as a "food and kindred products" facility under SIC Code "20";

- b) storm water falling in or flowing through the tank farm was collected and conveyed through a drainage system and discharged from this drainage system through an outfall to the Brook;
- c) the tank farm is a “manufacturing, processing [and] raw materials storage area at an industrial plant” within the terms of 40 C.F.R. § 122.26(b)(14); and
- d) the “conveyance” that was used for collecting and conveying storm water from the tank farm was therefore “directly related to manufacturing processing [and] raw materials storage areas at an industrial plant” within the terms of 40 C.F.R. § 122.26 (b)(14).

44. Pilgrim did not apply for a NPDES permit to cover its storm water discharges from the tank farm until February 16, 2000, and it did not obtain coverage under the Multi-Sector General Permit until February 18, 2000.

45. Between October 1, 1992, to February 16, 2000, Pilgrim was required to have, but did not apply for, a NPDES permit for the discharge of any storm water associated with industrial activity from its tank farm area, in violation of Section 308 of the CWA, 33 U.S.C. § 1318, and the regulations adopted thereunder at 40 C.F.R. § 122.26.

46. Pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), Pilgrim is subject to the assessment of civil penalties of up to \$25,000 per violation for each day it remained in violation before January 31, 1997. Pursuant to The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, 40 C.F.R. Part 19, Pilgrim is subject to penalties of up to \$27,500 per violation for each day of violation occurring on or after January 31, 1997.

**COUNT 2**  
**UNAUTHORIZED DISCHARGE OF STORM WATER**  
**SECTION 301(a) VIOLATIONS**

47. The United States realleges and incorporates by reference the allegations of Paragraphs 1 through 46 above.

48. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into the navigable waters of the United States except in compliance with, among other things, a NPDES permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.

49. During precipitation events occurring between October 1, 1992 and February 18, 2000, Pilgrim discharged “storm water associated with industrial activity” from the tank farm area of its Greenville, New Hampshire, food processing facility to the Brook without a NPDES permit in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and the regulations at 40 C.F.R. Part 122.

50. Pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), Pilgrim is subject to the assessment of civil penalties of up to \$25,000 per violation for each day it remained in violation before January 31, 1997, and, pursuant to The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, 40 C.F.R. Part 19, penalties of up to \$27,500 per violation for each day of violation occurring on or after January 31, 1997.

**COUNT 3**  
**WASTE STREAM DISCHARGES TO BROOK:**  
**SECTION 301(a) VIOLATIONS**

51. The United States realleges and incorporates by reference the allegations of Paragraphs 1 through 50 above.

52. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters of the United States except in compliance with the terms and conditions of a NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

53. For a period of time prior to August 6, 1996, floor wash waters and "boiler blow-down" drained through a cracked plug in a pipe connecting a floor drain in the vinegar pasteurizing and bottling area and discharged to the Brook.

54. Until October, 1998, the water from the truck interior tank rinse operations flowed into the storm water drainage system and discharged to the Brook.

55. Until October, 1998, water from the exterior vehicle washing operations flowed into the storm water drainage system and discharged to the Brook.

56. The waters Pilgrim discharged to the Brook from the pasteurizing room floor drain, the interior truck tank rinse, and exterior vehicle washing operations contained "pollutants" within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

57. Pilgrim's waste water discharges to the Brook from: a) the floor drain in the vinegar pasteurizing and bottling area; b) its interior truck tank rinse operations; and c) its exterior vehicle washing operations were not authorized by a NPDES permit.

58. By discharging waste water to the Brook from the vinegar pasteurizing and bottling area, the interior truck tank rinsing operations, and the exterior vehicle washing operations without a NPDES permit, Pilgrim violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

59. Pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), Pilgrim is subject to the assessment of civil penalties of up to \$25,000 per violation for each day

it remained in violation before January 31, 1997, and, pursuant to The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, 40 C.F.R. Part 19, penalties of up to \$27,500 per violation for each day of violation occurring on or after January 31, 1997.

**COUNT 4**  
**SEPTEMBER 8, 1998 OIL SPILL:**  
**SECTION 311(b)(3) VIOLATION**

60. The United States realleges and incorporates by reference the allegations of Paragraphs 1 through 59 above.

61. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health and welfare or to the environment of the United States.

62. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), the President of the United States has determined those quantities of oil, the discharge of which may be harmful to the public health and welfare or to the environment of the United States, as set forth at 40 C.F.R. § 110.3.

63. Under 40 C.F.R. § 110.3, discharges of oil that cause a film or sheen upon, or discoloration of, the surface of navigable waters of the United States are harmful to the public health and welfare or to the environment of the United States.

64. On September 8, 1998, Pilgrim spilled approximately 10 to 15 gallons of light diesel oil in the vehicle maintenance area of its facility in Greenville, New Hampshire.

65. The oil flowed into a floor drain in the vehicle maintenance area to the storm water discharge system and discharged into the Brook.

66. As a result of the discharge of the oil to the Brook, a film or sheen of oil developed on the water flowing in the Brook downstream from the storm water system outfall and an odor of diesel fuel was detected in that area.

67. The discharge of oil to the Brook through Pilgrim's garage floor drain on September 8, 1998, was in violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

68. Pursuant to Section 311(b)(7)(C) of the CWA, 33 U.S.C. § 1321(b)(7)(C), and The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, 40 C.F.R. Part 19, Pilgrim is subject to penalties of up to \$27,500 for each day of violation occurring on or after January 31, 1997.

**COUNT 5**  
**FAILURE TO PREPARE TIMELY OIL SPILL PREVENTION, CONTROL,**  
**AND COUNTERMEASURE PLAN: SECTION 311(j) VIOLATION**

69. The United States realleges and incorporates by reference the allegations of Paragraphs 1 through 68 above.

70. Pursuant to Section 311(j)(1) of the CWA, 33 U.S.C. § 1321(j)(1), EPA has promulgated Oil Pollution Prevention Regulations at 40 C.F.R. Part 112.

71. Pursuant to 40 C.F.R. § 112.3(b), an owner or operator of a facility that became operational after January 10, 1974 (the effective date of the Oil Pollution Prevention Regulations) that has discharged or, due to its location, could reasonably be expected to discharge oil in harmful quantities into or upon the navigable waters of the United States is required to prepare a SPCC Plan within six months after the date the facility began operations.

72. Pilgrim is the “owner or operator” of the food processing plant at 68 Old Wilton Road in Greenville, New Hampshire, within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2.

73. Pilgrim’s food processing plant in Greenville, New Hampshire, is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

74. Since at least December, 1990, Pilgrim has stored oil, within the meaning of Section 311(a)(1), 33 U.S.C. § 1321(a)(1), and 40 C.F.R. § 112.2, in a 10,000-gallon above ground storage tank at its Greenville, New Hampshire, plant.

75. As a result of its location, Pilgrim’s Greenville plant could reasonably be expected to discharge oil in harmful quantities, as defined at 40 C.F.R. Part 110.3 pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. §§ 1321(b)(4), into or upon navigable waters of the United States as defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. Parts 110.1 and 112.2.

76. Pilgrim was required to prepare an oil SPCC Plan no later than June 30, 1991, under 40 C.F.R. Part 112.3(b).

77. Pilgrim prepared its SPCC Plan on or about April 29, 1999.

78. By failing to prepare a SPCC Plan for its Greenville facility by June 30, 1991, Pilgrim violated 40 C.F.R. § 112.3(b) promulgated under Section 311(j) of the CWA, 33 U.S.C. § 1321(j).

79. Pursuant to Section 311(b)(7)(C) of the CWA, 33 U.S.C. § 1321(b)(7)(C), Pilgrim is subject to the assessment of civil penalties of up to \$25,000 per violation for each day it

remained in violation of Section 311(j) of the CWA, 33 U.S.C. § 1321(j), and 40 C.F.R. § 112.3(b), before January 31, 1997, and, pursuant to The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, 40 C.F.R. Part 19, penalties of up to \$27,500 per violation for each day of violation occurring on or after January 31, 1997.

## **VI. PRAYER FOR RELIEF.**

Therefore, the United States requests that this Court:

**A. Enter a declaratory judgment that Pilgrim:**

1. Failed to apply for a permit to discharge storm water associated with industrial activity from the tank farm area at its Greenville, New Hampshire, facility to navigable waters of the United States between October 1, 1992 and February 16, 2000, in violation of Section 308 of the CWA, 33 U.S.C. § 1318(a), and 40 C.F.R. § 122.26;
2. Discharged storm water associated with industrial activity from the tank farm area of its Greenville, New Hampshire, plant to navigable waters of the United States without a permit in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and 40 C.F.R. § 122.26;
3. Discharged waste water to the Brook from: a) the floor drain in the vinegar pasteurizing and bottling area for an unknown period of time before August 6, 1996; b) its interior truck tank rinse operations from before 1986 to October, 1998; and c) its exterior vehicle washing operations from before 1986 to October, 1998, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a);
4. On September 8, 1998, discharged oil to navigable waters of the United States in violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3); and
5. From approximately July 1, 1991 to April 28, 1999, failed to have a Spill Prevention Control and Countermeasure Plan in relation to its oil storage facilities in violation of Section 311(j) of the CWA, 33 U.S.C. § 1321(j), and in violation of 40 C.F.R. § 112.3(b).

- B. Permanently enjoin Pilgrim from discharging storm water associated with industrial activities to navigable waters of the United States without necessary NPDES permits;
- C. Permanently enjoin Pilgrim from discharging pollutants from process waters and related activities to navigable waters of the United States without necessary NPDES permits;
- D. Permanently enjoin Pilgrim from discharging oil to navigable waters of the United States;
- E. Order Pilgrim to:
1. Terminate all unpermitted discharges to the Brook;
  2. Further study potential discharges and other actions reasonably necessary to prevent such discharges;
  3. For 12 consecutive months submit to EPA, within 14 days of the end of each month, copies of the following reports performed pursuant to the storm water pollution prevention ("SWPP") plan developed for the Facility and/or the requirements of the Multi-Sector General Permit or any subsequently issued permit: (a) copies of all reports of weekly and monthly routine facility inspections, site compliance evaluations, and sampling and visual monitoring conducted during that month; and (b) the results of any monitoring required by any NPDES permit that EPA has issued or may issue in the future and by the SWPP Plan;
  4. Comply with all NPDES permit requirements, including the SWPP Plan;
  5. Construct secondary containment to ensure containment of any spill that could result from tank failure or bulk transfer of raw materials or product;
  6. Comply with the Spill Prevention Control and Countermeasure ("SPCC") Plan;
  7. For 12 consecutive months submit to EPA, within 14 days following the end of each month, copies of all inspection reports performed pursuant to the SPCC Plan;
  8. Engage a third-party to conduct a full multi-media compliance audit of the facility; and

9. Develop and implement an Environmental Management System.

F. Pursuant to Section 309(c) of the CWA, 33 U.S.C. § 1319(c), Section 311(b)(7)(C) of the CWA, 33 U.S.C. § 1321(b)(7)(C), and The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, 40 C.F.R. Part 19, assess civil penalties against Pilgrim not to exceed \$25,000 per violation for each day it remained in violation of the above-referenced provisions of the CWA before January 31, 1997, and \$27,500 per violation for each day it remained in violation on or after January 31, 1997.

G. Award the United States the costs of this enforcement action; and

H. Grant the United States such further relief as may be just and proper.

Respectfully submitted,

THOMAS L. SANSONETTI  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

THOMAS COLANTUONO  
United States Attorney

By: \_\_\_\_\_  
T. David Plourde, NH Bar No. 2044  
Assistant U.S. Attorney  
55 Pleasant Street  
Concord, NH 03301-3904  
(603) 225-1552  
David.Plourde@usdoj.gov

Dated: \_\_\_\_\_

Of Counsel:

Kathleen E. Woodward, Esq.  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency  
Region I  
Suite 1100 - SEL  
One Congress Street  
Boston, MA 02114-2023  
(617) 918-1780